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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

Letter dated 13 June 1997 from the Secretary-General addressed to the President of the General Assembly

I have the honour to refer to my letter dated 28 June 1994 (A/48/954-S/1994/751), in which I informed the General Assembly and the Security Council of the signing by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca of an Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused the Guatemalan population to suffer.

I am pleased to inform you that the Clarification Commission, whose work will be of great importance to national reconciliation in Guatemala, is completing preparations for its official inauguration. The United Nations, as established in the Agreement mentioned above, has been providing this independent Commission with administrative and managerial support during the preparatory phase of its work. It is of the utmost importance that the Commission be granted the necessary financial means to start operating as soon as possible, in order to maintain the current momentum in favour of clarifying the past so that the country can move forward in the daunting tasks of national reconstruction and reconciliation.

I therefore would like to ask you to circulate the attached documents, namely a letter from the Commissioners (Professors Christian Tomuschat and Edgar Alfredo Balsells Tojo, and Ms. Otilia Lux de Cotí) addressed to the international community in Guatemala, the Government and non-governmental organizations appealing for funds (annex I), together with a brief summary of the Commission's structure, budget and operating procedures (annex II), as an official document of the General Assembly, under agenda item 40.

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Finally, I would like to add my own voice to those of the members of the Clarification Commission, and call upon all Member States to respond generously to their appeal.

(Signed) Kofi A. ANNAN

Annex I

[Original: Spanish]

Letter dated 20 May 1997 from the members of the Clarification Commission addressed to the international community in Guatemala, the Government of Guatemala and non-governmental organizations

We have the honour to address you as members of the Commission to Clarify Past Human Rights Violations and Acts of Violence That Have Caused the Guatemalan Population to Suffer which, as you know, was established by means of the Agreement concluded between the Government of the Republic of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) at Oslo on 20 July 1994.

As you are aware, the Commission is continuing to prepare for its installation with the support of the United Nations. Yesterday, as part of this process, we Commissioners approved the Commission's budget, bearing in mind the terms of its mandate and the fact that it will be in operation for a total of 10 months, assuming that only four of the six months granted to us by the Agreement as the sole possible extension are added to its regular period of work. Attached hereto is a document containing a summary of the structure and method of operation of the Commission and its support office and of the budget requirements, which total US$ 7,746,635.

Given that the Commission does not have its own resources and is in urgent financial need, we are compelled to turn to the Government of Guatemala and the representatives of the international community for support. We are addressing ourselves to your Government in particular in the hope of obtaining the necessary funding and receiving your generous support.

To this end, we should like to inform you that any funds that you may wish to contribute can be deposited into account No. 015-002284, which has been opened for this purpose at the Chase Manhattan Bank of New York, and should be labelled "UNOPS-Contribution to the Guatemalan Clarification Commission".

Yesterday, too, we concluded an agreement with the United Nations Office for Project Services (UNOPS), under which the Office will be in charge of managing and investing the funds received, in accordance with the terms of the approved budget and our instructions, and with the applicable rules of the United Nations.

Please do not hesitate to contact the Commission regarding any questions or items of information which you may deem pertinent. Until permanent facilities

are available, we can be contacted directly, or through Mr. Fernando Castañón at telephone number 339-3431.

(Signed) Christian TOMUSCHAT
Member and Coordinator
of the Commission

(Signed) Otilia LUX DE COTÍ
Member of the Commission

(Signed) Edgar Alfredo BALSELLS TOJO
Member of the Commission

ANNEX II

Guatemalan Clarification Commission: operation, structure and budget

1. The Commission to Clarify Past Human Rights Violations and Acts of Violence That Have Caused the Guatemalan Population to Suffer (the "Clarification Commission") was established by means of the Agreement concluded at Oslo on 20 June 1994 between the Government of the Republic of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) as part of the Guatemalan peace process. That Agreement sets forth the procedure for setting up the Commission, its mandate and the general terms for fulfilling that mandate, and also establishes a period of six months for the duration of the Commission's work, starting from the date of its installation, indicating that this period may be extended for a further six months if the Commission so decides.

2. In accordance with the Agreement, the Commission has as its purposes:

(a) To clarify with objectivity, equity and impartiality human rights violations and acts of violence connected with the armed conflict that have caused the Guatemalan population to suffer;

(b) To prepare a report containing the findings of the investigations carried out and providing objective information on events during the period in question, covering all factors, both internal and external;

(c) To formulate specific recommendations designed to foster peace and national harmony in Guatemala. The Commission shall recommend, in particular, measures to preserve the memory of the victims, to foster a culture of mutual respect and observance of human rights and to strengthen the democratic process.

3. With regard to its operation, the Agreement provides that:

(a) The Commission shall receive particulars and information from individuals or institutions that consider themselves to have been affected, and also from the parties;

(b) The Commission shall be responsible for clarifying those situations fully and in detail. In particular, it shall analyse with complete impartiality the factors and circumstances involved in such cases. The Commission shall invite those who may be in possession of relevant information to present their version of events. Failure of the interested parties to appear shall not prevent the Commission from reaching a determination on cases;

(c) The Commission shall not attribute responsibility to any individual in its work, recommendations or report, nor shall these have any judicial purpose or effect.

4. The investigations shall cover the period from the start of the armed conflict until the signing of the Agreement on a Firm and Lasting Peace on 29 December 1996.

5. The Commission shall prepare a report containing the results of its work, which shall be handed over to the parties and to the Secretary-General of the United Nations, who shall publish it.

Composition

6. The Agreement on the establishment of the Commission, like the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements, provides for the Commission to be set up after the signing of the Agreement on a Firm and Lasting Peace, which took place on 29 December 1996. Consequently, and in accordance with the relevant provisions of the Agreement on the Commission's establishment, the Secretary-General appointed Mr. Christian Tomuschat, a German university professor and former independent expert on Guatemala of the United Nations Commission on Human Rights, as a member of the Commission. Under the terms of the Agreement, Mr. Tomuschat, with the agreement of the parties, appointed Ms. Otilia Lux de Cotí, a Guatemalan educator specializing in educational adminstration and university teaching, and Mr. Edgar Alfredo Balsells Tojo, a Guatemalan lawyer and notary who has played a longstanding role in Guatemala's university and academic life, as the other two members of the Commission.

7. The Agreement also provided that the Commission would have whatever support staff it deemed necessary, with the requisite qualifications to carry out its tasks.

Preparations for the Commission's installation

8. The United Nations, in response to the request made by the parties in the Agreement, is providing considerable support to the Commissioners in installing the Commission. Such support mainly involves the assignment of specialized staff to carry out preparatory tasks in a variety of areas, ranging from substantive issues to matters relating to the development of a working methodology and procedures, the preparation of a chronology for the period covered by the Commission's work, and administrative and logistical matters, which include everything from the recruitment of support staff selected by the members of the Commission to the renting and refurbishing of office space.

9. With a view to ensuring consistency in the assistance provided to the Commissioners and facilitating the Commission's future work, the Commissioners have appointed an executive secretary to run the support office.

10. In the context of the preparatory work, support has been requested, and obtained, from various non-governmental organizations, both international and national. These organizations have made suggestions and contributions, particularly concerning the working methodology and the historical chronology, and are continuing to cooperate in this area.

11. The Commission is operating on the principle that optimum use must be made of human, material and financial resources and that every effort must be made to avoid duplication of efforts. To that end, consideration is being given to mechanisms whereby the Commission might take advantage of the efforts already made or currently being made to investigate and analyse Guatemala's past, some

of which have been funded by the international community. At the same time, deployment on the ground has been planned in such a way as to make use of facilities that are currently operating. Following favourable reports as to the impact of the work and the image of the regional offices of the United Nations Verification Mission in Guatemala (MINUGUA) and the recommendations made both by the parties and by representatives of the international and non-governmental community organizations, the Commission members have decided to establish support offices in the MINUGUA regional offices, while maintaining the necessary independence.

12. An agreement has been concluded with the United Nations Office for Project Services (UNOPS) for the latter to manage the Commission's funds and ensure the administrative implementation of decisions taken by the Commissioners, in accordance with United Nations regulations. This agreement has already entered into force and is also applicable to the preparatory phase.

Support offices: structure and deployment

13. In order to structure the human and material resources for the implementation of the Commission's mandate, the Commissioners have decided to organize their support staff into a support office under an executive secretary. This office will have three divisions - investigations, historical analysis and operations - with an officer in charge of each, and a coordinator of the final report. The office will be organized taking into account the need to ensure that Guatemala's population has as broad and unrestricted access to the Commission as is possible, while guaranteeing confidentiality of sources and the personal safety of those who provide testimony to it.

14. The office staff will be able to provide its services in the context of an administrative contract under the 300 series of the Staff Rules of the United Nations, a reimbursable loan from an agency or office of the system or a consultancy contract, or through the United Nations Volunteers programme, depending on the case. It is also possible that some donor countries or other representatives of the international community may decide to make their contribution in the form of the secondment of experts.

15. From the territorial standpoint and in order to help ensure that anyone who wishes to approach the Commission can do so and that the Commission has a presence in all the country's departments, the support office will be divided between the headquarters in Guatemala City, three sub-offices and nine liaison offices. The substantive staff assigned to the various offices will be organized into teams of between three and five people; there will also be mobile teams to handle unforeseen developments and go wherever they are needed to hear witnesses and gather evidence.

16. In addition, there will be security staff to protect the Commissioners and the teams of investigators, and administrative staff to assist the Commission's overall operations.

17. The support office will plan its deployment on the ground and the number of investigators and technical staff used according to five phases:

Start-up phase (one month)

Tasks and objectives: Definition of working methodology, specialized training of staff and establishment of offices in the country's interior.

Facilities: Headquarters

Staff: 58 professionals
30 service staff
6 security officers.

Maximum deployment phase (four months)

Tasks and objectives: Gathering of testimony and statements from the population, analysis and organization of documentary materials and archives.

Facilities: Headquarters, three sub-offices and nine liaison offices

Staff: 72 professionals
33 service staff
21 security officers.

Intermediate phase (1.5 months)

Tasks and objectives: More in-depth investigation of cases, analysis and organization of documentary materials and archives and organization of cases.

Facilities: Headquarters and three sub-offices

Staff: 69 professionals
33 service staff
12 security officers.

Analysis and in-depth investigation phase (two months)

Tasks and objectives: Analysis and organization of documentary materials and archives, organization of cases, selection of most important cases and determination of the format of the final report.

Facilities: Headquarters

Staff: 34 professionals
24 service staff
6 security officers.

Final phase (1.5 months)

Tasks and objectives: Drafting of the final report and winding up of operations.

Facilities: Headquarters

Staff: 21 professionals
24 service staff
6 security officers.

Financing

18. The Commission does not have any funds of its own. Accordingly, it must seek contributions from the Government of the Republic of Guatemala and the international community in order to cover the budget that follows:

Budget

19. The budget requirements for the operation of the Commission's office are as follows:

DESCRIPTION	US dollars
Staff, investigators, consultants, etc.	4 186 642
Missions	405 000
Subcontractors and seminars	858 000
Equipment and supplies	899 000
Miscellaneous	655 000
Preparatory phase	202 530
Administration	540 463
TOTAL	7 746 635